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OFFICE OF THE ATTORNEY GENERAL

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Writer Direct: (518) 776-2293

January 3, 2023

Hon. Therese Wiley Dancks (*via CM/ECF filing*)
Federal Building and U.S. Courthouse
P.O. Box 7346
Syracuse, NY 13261-7346

Re: *Young America's Foundation et al v. Stenger et al*
Northern District of New York – 20-cv-822 (LEK/TWD)

Dear Judge Dancks:

This office represents Defendants John Pelletier, Brian Rose and Harvey Stenger (“State Defendants”). This letter is a report as to the status of discovery, and a request for an extension of discovery deadlines. The current discovery deadline is January 23rd.

To date, no depositions of Plaintiffs’ representatives have been held. State Defendants’ initial deposition notices to Plaintiffs Lizak, Binghamton University (“BU”) College Republicans (“CR”) and Young America’s Foundation (“YAF”) were served in October 2021, prior to any deposition notices by Plaintiffs. We have followed up several times for available dates for Plaintiffs’ witnesses.

At present, we have dates secured for former CR President Restuccia (on January 10, 2023) and YAF representative Raj Kannappan (January 19). We also intend to depose Plaintiff Lizak, CR former member Lacey Kestecher, current CR President Rein Bey, Plaintiff’s expert Anthony J. Raganella, and possibly other Plaintiff witnesses, based upon interrogatory responses which are due January 6th. Plaintiff’s attorney today advised that available dates for these aforementioned witnesses are forthcoming in the near future, but as of this writing have still not been received.

With respect to Defendants’ witnesses, Plaintiffs have deposed Defendant and former BU Police Chief Pelletier, and two members of the BU police force. State Defendants consented to produce these witnesses in advance of Plaintiff depositions as a courtesy, as Plaintiffs’ counsel indicated that they needed these depositions in advance of the expert disclosure deadline. Plaintiffs have requested depositions of Defendants Stenger, Rose, Matthew Johnson (of Defendant Student Association (“SA”)), an SA 30(b)(6) witness or witnesses, Dheivanai Moorthy (a representative of Defendant College Progressives (“CP”)), Ryan Yarosh (BU), and Timothy Faughnan (BU). State Defendants are working to identify available dates for Rose, Stenger and BU representatives.

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Based upon a response from counsel for Defendant SA, three identified SA representatives are unavailable until after January 18th.

Based upon the above, I do not believe that it is realistic that these numerous depositions can be completed before January 23rd. I have suggested to Plaintiff's counsel that a two-month extension of discovery deadlines would be realistic, and counsel has indicated that they will only consent to an extension to January 31, 2023. State Defendants request a two-month extension of the discovery deadline, and I have spoken to counsel for Defendant SA, who joins in this request.

In the alternative, a judicial conference is requested to discuss the above.

Thank you for your kind consideration.

Very truly yours,

s/ *John F. Moore*

John F. Moore

Assistant Attorney General

Bar Roll No. 105188

cc (via ECF): All Counsel